

Remarks

Claims 3 through 5, 7 through 12 and 14 through 16 remain pending in the application. The second instance of claim 3 has been removed for clarity. New claim 18 has been added.

The applicant appreciates the examiners cooperation in scheduling and conducting a telephonic interview February 26, 2007. The discussion of the pending \$112 rejections was inconclusive and the applicant herein amends the claims to remove the objectionable language. With regard to the pending \$102 rejection, applicant appreciates the examiner's indication that addition of "directly" to the fastener limitation would place claim 5 in condition for allowance. New claim 18 is presented herein with the "fasteners directly coupled" limitation.

Applicant maintains that the examiner misapprehends the substance of Stokes and inappropriately equates the downrigger of Stokes with the distal rod suspension elements of the present invention. As indicated during the interview, the applicant is including exhibits with this amendment that discuss the difference between the applicants device "uprigger" and conventional downriggers.

Claims 5, 6 and 13 stand rejected under 35 U.S.C. §102(b) as anticipated by Stokes, Apparatus for mounting trolling devices on watercraft, U.S. Patent No. 5,673,507 (Oct. 7, 1997). As amended, the fastener of independent claim 5 engages a fishing reel which supports the first fishing rod. Stokes does not teach or suggest indirectly supporting a fishing rod by engaging and supporting the reel to which the rod is attached. Since Stokes fails to teach or suggest one limitation claimed by the Applicant, Stokes does not anticipate the Applicant's

claimed invention. Therefore, withdrawal of this rejection is respectfully requested.

The examiner asserts that tube 46 or 48 of Stokes corresponds to the L-shaped fishing rod holder of the first claim element (the substantially L-shaped [fishing rod holder] and having a proximal end and a distal end). The fishing rod holder of claim 5 is secured at its proximal end to a fishing rod receiver. Thus by analogy, the proximal end of the Stokes apparatus must be the end secured to the boat and is represented by gimbal 30 shown in Figure 2 of Stokes. Therefore, if gimbal 30 or even base element 20 represent the proximal end of an analogous rod holder, the distal end must be at numbers 52 of Stokes Figure 2.

Stokes does not teach or suggest any "fastener supported from the distal end of the tip-down fishing rod holder by a flexible element." The only fishing rod securing mechanisms of Stokes are rod holders 80 that clearly engage the butt ends of the fishing rods. According to Stokes, "The rod holders are specifically arranged and positioned to hold fishing rods 114 at preferred angled orientations so that lines extending from each of the rods do not tangle with one another or with lines extending from other devices supported on apparatus 10." (Stokes, Col. 4, ll. 44-52) In the claimed invention, the "first rod can be rotated in any direction because the rod is only constricted by the straps and not by any rigid or fixed structure." (Melville Application, Page 4, ll. 10-12)

Stokes does not teach or suggest the fastener adapted to engage a reel eye of a first fishing reel connected to a first fishing rod which freely suspends the first fishing rod. Every rod securing device of Stokes is a conventional rod holder such as rod holders 114 and the rod holder of the downrigger at

number 112. Conventional fishing rod holders are tubes that engage the butt of a fishing rod as identified by Stokes in claims 4, 9 and 10. The rod holders of Stokes do not engage the reel as claimed by the present invention. Clearly Stokes does not teach or suggest several or the claimed elements and thus the rejection of claim 5 should be withdrawn.

Claim 6 and claim 13 are canceled. Thus, the rejections with respect to claims 6 and 13 are now moot.

Claims 3, 4, 7, 8, 10 and 14 through 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Malmberg, Fishing Rod Tender, U.S. Patent 5,778,592 (Jul. 14, 1998) in view of Rossiter, Fishing Harness Adapter, U.S. Patent No. 5,662,251 (Sep. 2, 1997). Malmberg holds the handle of a fishing rod rigidly and cradles the fishing rod shaft with S-shaped cradle member 88. The tip of the fishing rod in Malmberg is held vertically stationary. (Malmberg, Col. 3, l. 65 through Col. 4, l. 13). Malmberg does not freely suspend the fishing rod by the reel allowing the rod itself to rotate in any direction. In contrast to Malmberg, the Applicant's device allows the entire fishing rod to rotate in any direction, including vertically.

Rossiter is directed towards a fishing harness for stand up fishing. (Rossiter, Col. 1, ll. 1-10). The Rossiter device requires the fisherman to wear the device. Rossiter does not teach or suggest a fastener adapted to engage a reel eye of a first fishing reel connected to a first fishing rod which freely suspends the first fishing rod. Rossiter teaches that the fisherman supports the fishing rod with one or both hands when using the fishing harness adapter. (Rossiter, Col. 1, ll. 50-52). "The gimbaled rod pad 34 accepts the butt of a fishing rod 28." (Rossiter, Col. 3, ll. 14-15). "He must have at least one

hand, and preferably both hands, upon and in control of the rod 28." (Rossiter, Col. 3, ll. 40-42). Furthermore, Rossiter does not allow for the fishing rod to rotate in any direction. Since the combination of Malberg and Rossiter fails to teach or suggest limitations found in the Applicant's claimed invention, the combination fails to render obvious Applicant's claims 3, 4, 7, 8, 10 and 14 through 16.

The Applicant's claimed device is experiencing industry acclaim and offers unappreciated advantages over the prior art of record which are described in the enclosed exhibits. Exhibit 1 is a professional edition of Frederick Archer, THE NEW SHARK TROLLER'S BIBLE, (2004). This is one of many fishing books written by the acclaimed sport fishing author Fred Archer. On pages 82-84 Captain Archer discusses his evaluation of the present invention (the uprigger) and how different it is from conventional devices (specifically downriggers and outriggers). The claimed invention is further featured on pages 89-90, 98, 110 and 146.

Excerpts from Frederick Archer, THE NEW SECRETS OF MODERN TROLLING (Book 1), (2005), are included as exhibit 2. At page 153, Captain Archer (as the former head of Shimano American Corporation) highlights the industry acclaim for the present invention "When I was running Shimano, when we showed our reps, customers and fishermen new products that we were introducing and they started saying those words [how come no one ever thought of that before], I knew that we had a winner. The first thing that I said when I saw my first set of UpRiggers and realized all of the neat stuff fishermen could and will do with them I myself said, "HOW COME NO ONE EVER THOUGHT OF THIS BEFORE?!" The excerpt on page 154-156 is a further discussion of Captain Archer's enthusiasm for the present invention, his

recognition of its unique qualities and how he distinguishes the present invention from downriggers (such as Stokes downrigger 112) and other conventional devices.

Excerpts from Frederick Archer, *THE NEW SECRETS OF MODERN TROLLING* (Book 2), (2005) are included as exhibit 3. At page 126 Captain Archer clearly distinguishes the present invention from conventional rod holders on downriggers (such as Stokes downrigger 112). Thus the examiner's equation of the downrigger of Stokes with the distal rod fasteners of the present invention cannot be maintained in the face of an expert in the field clearly distinguishing the devices.

The expertise of Captain Fred Archer is supported by Exhibit 4, Frederick Archer, *FRED ARCHERS BIG GAME CATALOG*, (2006). Page 1 includes a book review from the July/August edition of the "Big Game Fishing Journal" and the following pages include some of Captain Archer's books. The present invention is further included at the tabbed pages for the examiner's convenience.

Frederick Archer, *SECRETS OF THE WEST COAST PRIVATE BOAT PROS* (Book 1), and (Book 2) (2005) are provided as Exhibit 5. The claimed invention is featured in Book 1 on pages 38, 75, 92-96, 123-124 and 140. In Book 2 the claimed invention may be found on pages 101 and 105-107. These exhibits document the industry acclaim and the unappreciated advantages of the claimed device over the prior art of record.

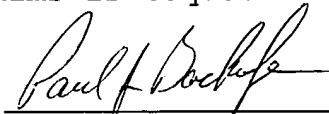
For at least these reasons, withdrawal of these rejections is respectfully requested.

Conclusion

This response has addressed all of the Examiner's objections and grounds for rejection. The rejections based on prior art have been traversed. Reconsideration of the rejections and allowance of the claims is requested.

Date: March 12, 2007

By:



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